IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 7TH SEPTEMBER 2007 / 16TH BHADRA 1929

Bail Appl..No. 5394 of 2007()

CRMP.4126/2007 of J.M.F.C.,THIRUVALLA

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CRIME NO.60/2007 OF THIRUVALLA POLICE STATION

PETITIONERS/ACCUSED NOS.1 & 2

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1. THOMAS KUTTY @ RAJU,
S/O.VARGHESE MATHAI,
KUTTIPOOVATHINKAL HOUSE,
VELLAYIL MURI,PERUMPETTY VILLAGE,
MALLAPPALLY TALUK,PATHANAMTHITTA DISTRICT.

2. VIJAYAN,S/O.RAGHAVAN,
CHARIVUKALA MANNIL HOUSE,
PULLAD MURI,KOIPURAM VILLAGE,
THIRUVALLA,PATHANAMTHITTA DISTRICT.

BY ADV. SRI.ABRAHAM SAMSON
SMT.LOVELY SAMSON

RESPONDENTS: STATE

THE STATE OF KERALA,
REP.BY THE EXCISE INSPECTOR,
THIRUVALLA EXCISE RAGE-
THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM,KOCHI-31.

BY PUBLIC PROSECUTOR ADV.SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 07/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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B.A.No.5394 of 2007

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Dated this the 7th day of September, 2007

ORDER

Application for regular bail. The petitioners are accused 1 and 2. Altogether there are four accused persons. The petitioners are allegedly workers in a toddy shop. The crux of the allegations against the petitioners is that when the Excise officials went to the toddy shop, 200 ml of Arrack., 34.5 litres of arrack mixed with toddy and 10 litres of toddy were found in the premises of the toddy shop. The petitioners were arrested and continue in custody from 20.08.07.

2. The learned counsel for the petitioners submits that the allegations are raised because of the strain in the relationship of the first accused with the officials in the Excise department. The learned counsel for the petitioner submits that the allegations are totally false. The petitioners who remain in custody from 20.08.07 may now be released from custody, prays the learned counsel for the petitioners.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the theory of animosity is totally incorrect. All the materials collected point to the guilt of the accused persons. Co-accused have not arrested so far. In a serious crime like this, the Investigators may be granted sufficient further time

to complete the investigation. It is too early to release the petitioners, submits the learned counsel for the petitioners.

4. In the wake of the opposition by the learned Public Prosecutor, regular bail can be granted to the petitioner only if this court is in a position to entertain the twin satisfactions under Section 41A of the Kerala Abkari Act. I do not find any circumstances which can persuade this court to entertain either of those two satisfactions at the moment. I am satisfied that this petition deserves to be dismissed now.

5. In the result, this petition is dismissed. I may hasten to observe that the petitioners shall be at liberty to move this court or the learned Sessions Judge for bail at a later stage of the investigation, not at any rate, prior to 20.09.2007. The Investigators shall, in the meantime, make every endeavour to complete the investigation.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE